

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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5 JAMES STEVEN RUIZ,

6 Plaintiff,

7 vs.

8 NANCY A. BERRYHILL, Acting Commissioner
9 of Social Security,

10 Defendant.

2:17-cv-03036-JAD-VCF

ORDER

APPLICATION FOR LEAVE TO PROCEED IN FORMA
PAUPERIS [ECF No. 1] AND COMPLAINT [ECF No.
1-1]

11 Before the Court is Plaintiff James Steven Ruiz's Application for Leave to Proceed *in forma*
12 *pauperis* (ECF No. 1) and complaint (ECF No. 1-1). For the following reasons, Steven's Application is
13 granted and he may proceed with this action.
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15 **IN FORMA PAUPERIS APPLICATION**

16 Under 28 U.S.C. § 1914(a), a filing fee is required to commence a civil action in federal court. The
17 Court may authorize the commencement of an action without prepayment of fees and costs by a person
18 who submits an affidavit showing the person is "unable to pay such fees or give security therefor." 28
19 U.S.C. § 1915(a)(1). "Determination of what constitutes 'unable to pay' or unable to 'give security
20 therefor' and, therefore whether to allow a plaintiff to proceed *in forma pauperis*, is left to the discretion
21 of the presiding judge, based on the information submitted by the plaintiff or plaintiffs." *Lasko v. Hampton*
22 *& Hampton Collections, LLC*, No. 2:15-CV-01110-APG-VCF, 2015 WL 5009787, at *1 (D. Nev. Aug.
23 21, 2015).
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1 Ruiz's *forma in pauperis* application states that he is not currently working. (ECF No. 1 at 1). Ruiz
2 alleges that he receives a \$450 per month pension, but pays \$2,400 per month in bills and taxes. (*Id.* at 1-
3 2). Based on the information Ruiz provided in his application, the Court grants Ruiz's application.

4 5 **SECTION 1915(e) SCREENING**

6 Under 28 U.S.C. § 1915(e), upon granting a request to proceed *in forma pauperis*, a court must
7 screen a complaint. Specifically, federal courts are given the authority to dismiss a case if the action is
8 legally frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary
9 relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). "A complaint must
10 contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face."
11 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotations and citation omitted). In considering
12 whether the plaintiff has stated a claim upon which relief can be granted, all material allegations in the
13 complaint are accepted as true and are to be construed in the light most favorable to the plaintiff. *Russell*
14 *v. Landrieu*, 621 F.2d 1037, 1039 (9th Cir. 1980).

15 Ruiz's Complaint arises from a decision by the Commissioner of Social Security. The
16 Commissioner denied Social Security benefits to Ruiz after concluding that Ruiz was not disabled. (ECF
17 No. 1-1 at 2). Ruiz argues that there was no substantial medical evidence to support this conclusion. (ECF
18 No. 1-1 at 2-3). Specifically, Ruiz asserts that the commissioner "failed to identify a legally sufficient
19 reason to give little weight" to a doctor's opinion. (*Id.*)

20 There are standards that govern an ALJ's weighing of medical evidence. *Garrison v. Colvin* 759
21 F.3d 995, 1012 (9th Cir. 2014). "An ALJ errs when he rejects a medical opinion, or assigns it little weight
22 while... criticizing it with boilerplate language that fails to offer a substantive basis for his conclusion."
23 *Id.* at 1012-1013. Construing all material allegations in the Complaint in the light most favorable to the
24 Plaintiff, the Plaintiff states a claim upon which relief can be granted. Ruiz may appeal to this court the
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1 Commissioner's denial of her application for disability insurance benefits. 42 U.S.C. § 405(g). This court
2 has jurisdiction over the matter. *Id.*

3 Accordingly, and for good cause shown,

4 IT IS ORDERED that Plaintiff's Application to Proceed *In Forma Pauperis* (ECF No. 1) is
5 GRANTED.

6 IT IS FURTHER ORDERED that Plaintiff is permitted to maintain the action to conclusion
7 without the necessity of prepayment of any additional fees, costs, or security. This order granting *in forma*
8 *pauperis* status does not extend to the issuance of subpoenas at government expense.

9 IT IS FURTHER ORDERED that the Clerk of the Court file the Complaint (ECF No. 1-1) and
10 serve the Commissioner of the Social Security Administration by sending a copy of the summons and
11 Complaint (ECF No. 1-1) by certified mail to: (1) the Attorney General of the United States, Department
12 of Justice, 950 Pennsylvania Avenue, N.W., Room 4400, Washington D.C. 20530; and (2) Office of
13 Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear St., Suite 800, San
14 Francisco, CA 94105-1545.

15 IT IS FURTHER ORDERED that the Clerk of Court issue summons to the United States Attorney
16 for the District of Nevada and deliver the summons and Complaint (ECF No. 1-1) to the U.S. Marshal for
17 service.

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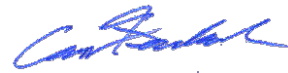
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1 IT IS FURTHER ORDERED that from this point forward, Plaintiff must serve upon defendant, or
2 his attorney if he has retained one, a copy of every pleading, motion, or other document submitted for
3 consideration by the court. Plaintiff must include with the original paper submitted for filing a certificate
4 stating the date that a true and correct copy of the document was mailed to the defendants or their counsel.
5 The court may disregard any paper received by a district judge, magistrate judge, or the Clerk which fails
6 to include a certificate of service.

7 IT IS SO ORDERED.

8 DATED this 13th day of February, 2018.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE